

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

PG&E Gas Transmission, Northwest
Corporation,

Respondent.

Docket No. CAA-10-2001-0201

ADMINISTRATIVE ORDER ON CONSENT

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WHEREAS, the Governor of Washington signed a Proclamation on January 26, 2001, and most recently extended through October 22, 2001, finding that vital public services, particularly affordable electrical power, are at risk and there exists a situation that threatens to disrupt or diminish the supply of energy to the extent that the public health, safety, and general welfare may be jeopardized, and declared an energy supply alert within the State of Washington;

WHEREAS, the Governor of Idaho signed a Directive on February 22, 2001, supporting increased energy generation in order to minimize the effects of current regional energy challenges on Idaho citizens and to ensure the economic well being of the State of Idaho;

WHEREAS, the PG&E Gas Transmission, Northwest Corporation (“GTN”) has proposed a pipeline expansion Project (“Project”) that will result in 210,000 Dth/day of additional natural gas pipeline capacity to serve the Northwest and California;

WHEREAS, the Project consists of the installation of additional compressor units (e.g., Solar Titan natural-gas fired turbines, rated at 19,500 horsepower ISO) along PG&E National Energy Group’s Mainline at station 4 in Idaho, stations 6 and 8 in Washington, and at stations 10 and 12 in Oregon;

WHEREAS, the Project will add approximately 97,500 horsepower of new compression in Washington, Idaho, and Oregon;

WHEREAS, the Project will provide natural gas pipeline capacity sufficient to support approximately 1250 megawatts of new natural gas-fired power plant capacity;

WHEREAS GTN anticipates receiving all necessary approvals, with the exception of final air quality permits, in time to start construction of the Project in September 2001, which would allow for completion of the Project by the summer of 2002;

WHEREAS, GTN has applied to the Washington State Department of Ecology (“Ecology”), the Idaho Department of Environmental Quality (“IDEQ”), and the Oregon Department of Environmental Quality (“ODEQ”) for Prevention of Significant Deterioration (“PSD”) permits and/or new source review construction permits under applicable state regulations to add compressor units to stations in Washington, Idaho, and Oregon, and has submitted to the Spokane County Air Pollution Control Authority (“SCAPCA”) a Notice of Construction and Application for Approval to add a compressor unit to a station in Washington;

WHEREAS, under the federal PSD regulations found at 40 C.F.R. § 52.21(b)-(w) which have been incorporated into the Washington State Implementation Plan (“SIP”) at 40 C.F.R. § 52.2497, a “major stationary source” may not begin actual construction of a “major modification” without first obtaining a PSD permit;

WHEREAS, pursuant to 40 C.F.R. § 52.21(u), EPA has delegated to Ecology partial responsibility for administering the federal PSD regulations and has retained authority to amend that delegation at any time;

WHEREAS, under Ecology regulations for new source review (Washington Administrative Code (“WAC”) ch. 173-400), an owner or operator must file a notice of construction application and obtain an approval order and PSD permit prior to beginning actual construction on a major modification to a major stationary source;

WHEREAS, pursuant to the Revised Code of Washington (“RCW”) 70.94.053, SCAPCA has jurisdiction to carry out the duties and exercise the powers provided in Chapter 70.94 RCW;

WHEREAS, under Section 5.02 of SCAPCA Regulation I, it is unlawful for any person to cause or allow the construction, installation, establishment, or modification of an air contaminant source or emission unit, except excluded sources, unless a Notice of Construction and Application for Approval has been filed with and approved by SCAPCA;

WHEREAS, installation of the compressor units to stations 6 and 8 constitutes “major modifications” to “major stationary sources” under the federal and Washington State PSD provisions;

WHEREAS on June 23, 1986, EPA approved amendments to Title 1, Chapter 1 *Rules and Regulations for the Control of Air Pollution in Idaho* and an amended Chapter VII, *Approval Procedures for New and Modified Facilities*, which were submitted to EPA by the Idaho Department of Health and Welfare (“IDHW”), as revisions to the Idaho SIP, see 40 C.F.R. § 52.670(c)(24);

WHEREAS, on July 23, 1993, EPA approved the recodification of the State of Idaho’s *Rules and Regulations for the Control of Air Pollution in Idaho* as part of the federally enforceable Idaho SIP, effective September 20, 1993, see 40 C.F.R. § 52.670(c)(26);

WHEREAS, IDAPA 1-1012, recodified as IDAPA 58.01.01, *Rules for the Control of Air Pollution in Idaho*, Section 201 provides that no owner or operator may commence construction or modification of any stationary source, facility, major facility, or major modification without first obtaining a permit to construct from IDEQ which satisfies the requirements of Sections 200 through 223 and, among these provisions, Section 205, Permit Requirements for New Major Facilities or Major Modifications in Attainment or Unclassifiable Areas, requires among other conditions the use of Best Available Control Technology (“BACT”) and compliance with the applicable PSD increment;

WHEREAS, installation of the compressor unit to station 4 constitutes a “major modification” to a “major stationary source” under the Idaho State PSD provisions;

WHEREAS, EPA approved New Source Review Rules located at Oregon Administrative Rules (“OAR”), ch. 340, as part of the federally enforceable Oregon SIP, on August 13, 1982, and

therefore, effective August 13, 1982, the requirements of Oregon's New Source Review Rules applied to PSD sources in Oregon;

WHEREAS, OAR 340-224-0010 prohibits an owner or operator from beginning construction on a major source or on a major modification without first obtaining approval to construct under an air contaminant discharge permit ("ACDP") and having satisfied the requirements contained in OAR 340 Division 224;

WHEREAS, installation of the compressor units to stations 10 and 12 constitutes "major modifications" to "major stationary sources" under the Oregon State PSD provisions;

WHEREAS, GTN has entered into an Enforcement Bridge and Mutual Agreement and Order with ODEQ ("Oregon Order"), dated August 15, 2001, to allow construction to begin on the compressor units at stations 10 and 12 of the Project prior to obtaining PSD permits;

WHEREAS, GTN has agreed to perform certain "mitigation projects" as outlined in paragraph 11.C of the Oregon Order;

WHEREAS, EPA received a letter dated June 26, 2001, from the Washington State Office of Trade and Economic Development stating that severe natural gas supply pressures have exacerbated the severe electricity short fall in the Northwest caused mainly by a drought that is the second-worst on record in the Northwest, and that the Project will help to relieve a key constraint in the regional natural gas delivery system and reduce the risk of electricity supply shortages during the upcoming years;

WHEREAS, EPA and IDEQ received a letter dated July 27, 2001, from the Governor of Idaho stating that there exists an energy crisis in the region and encouraging IDEQ and EPA to facilitate permitting of the Project to help meet the critical energy needs of the Pacific Northwest;

WHEREAS, ODEQ received a letter dated June 21, 2001, from the Oregon Office of Energy stating that the Pacific Northwest faces extraordinary energy conditions, and that demand for natural gas and electricity exceeds supply, and that the Project proposed by GTN would help to relieve the current projected energy shortfalls;

WHEREAS, EPA received a copy of the "Notice to Proceed" dated August 14, 2001, from the Federal Energy Regulatory Commission ("FERC") to GTN, describing that GTN may begin construction of the Project consistent with the conditions of its final Order Issuing Certificate;

WHEREAS, in order to meet the projected date for beginning commercial operation of the Project during the summer of 2002, and because of a limited construction season due to winter weather conditions, GTN must begin construction of the compressor units and expansion of the pipeline in September of 2001;

WHEREAS, GTN agrees that, while GTN may conduct start-up testing under applicable laws and regulations prior to Project approval, GTN will not commence commercial operation until it has obtained and is complying with all new PSD permits and order(s) of approval required for the Project;

WHEREAS, EPA, Ecology, SCAPCA, and IDEQ believe that no air pollution standards will be exceeded, and no harm to the environment will occur if GTN begins actual construction of the compressor units prior to receiving new PSD permits;

WHEREAS, EPA, Ecology, SCAPCA, and IDEQ find that in order to assist in alleviating the energy generation shortfall and to prevent a future energy shortfall, this Administrative Order on Consent (“Order”) is in the public interest;

NOW, THEREFORE, EPA, Ecology, SCAPCA, IDEQ and GTN (“Parties”) agree that:

I. Authority to Issue Order

1. EPA has the authority to issue this order pursuant to Section 167 of the Clean Air Act, 42. U.S.C. § 7477 (“Act”). Ecology has the authority to enter into this Order pursuant to Chapter 70.94 RCW. SCAPCA has the authority to issue this Order pursuant to Section 2.01 of SCAPCA Regulation I. IDEQ has authority to enter into this Order pursuant to Idaho Code § 39-101 through § 39-130.

II. Applicability and Binding Effect

2. This Order shall apply to and be binding upon the Parties, their successors and assigns, and their officers, directors, agents, servants, and employees.

3. From the Effective Date of this Order, until its termination, GTN shall give written notice and a copy of this Order to any successors in interest at least thirty (30) days prior to any transfer of ownership of any portion or interest in the Project, or any assignment of rights concerning, or delegation of duties relating to, any of the operations of the Project. GTN shall condition any transfer, in whole or in part, of ownership of, operation of, or other interest in the Project upon a binding written commitment to fully and successfully execute the terms and conditions of this Order. Simultaneously with such notice, GTN shall provide written notice of such transfer, assignment, or delegation to EPA. In the event of such transfer, assignment, or

delegation, GTN shall not be released from the obligations or liabilities of this Order unless EPA, Ecology, SCAPCA, and IDEQ have provided written approval of the release of said obligations or liabilities.

III. Definitions

4. Unless otherwise expressly provided herein, terms used in this Order shall have the meaning given to those terms in the Clean Air Act, and the regulations promulgated thereunder, the Washington SIP, Chapter 70.94 RCW, and regulations promulgated thereunder, the Idaho SIP, and the *Rules for the Control of Air Pollution in Idaho*, IDAPA 58.01.01 et seq., and the regulations promulgated thereunder, and the Oregon SIP, and Chapter 340 OAR. In addition, the following definitions shall apply to the terms contained within this Order:

“BACT” means the Best Available Control Technology, as defined by Section 169(3) of the Act, 40 C.F.R. § 52.21(b)(12), as incorporated into the Washington SIP, the Oregon SIP, and as defined in IDAPA 58.01.01.006.14 of the *Rules for Control of Air Pollution in Idaho*;

“Commence commercial operation” means to compress gas, excluding capacity generated during testing;

“Effective Date” means the latter date, if any, of signatures by the Parties;

“Order” means this Administrative Order on Consent;

“Parties” shall mean EPA, GTN, Ecology, IDEQ, and SCAPCA;

“Project” shall mean the addition of five turbine compressors, one each at Stations 4, 6, 8, 10, and 12;

“Termination Date” means the date in paragraph 23.

IV. Terms and Conditions

5. EPA, Ecology, SCAPCA, and IDEQ agree to use their best efforts to review the PSD permit applications and/or Notices of Construction and Applications for Approval and issue new PSD permits and/or orders of approval for the Washington and Idaho portions of the Project as expeditiously as possible; however, failure to do so shall not give rise to any damages including, but not limited to, general, special, incidental, or consequential damages for failure to meet any time lines.

6. The BACT analysis contained in the PSD permit applications, and any minor NSR permitting, shall be conducted as it would be for any proposed project and shall not be affected or prejudiced by the fact that the actual construction of the Project has begun.

7. GTN shall not commence commercial operation of the Project until it receives new PSD permits and/or orders of approval, although it may conduct start-up testing under applicable laws and regulations prior to obtaining such PSD permits.

8. EPA, Ecology, SCAPCA, and IDEQ reserve their rights to be present during any and all emissions testing conducted at the Project. Accordingly, GTN shall provide advance written notice of its proposed testing. The advance written notice shall be received by EPA, Ecology, SCAPCA, and IDEQ (as appropriate for the facility being tested) at least ten business days prior to testing.

9. GTN has entered into agreements with Ecology, SCAPCA, IDEQ, and ODEQ to support certain programs designed to enhance the environment. As part of this Order, GTN agrees

to fulfil its obligations under these agreements, and in particular, GTN agrees to complete the following projects:

a. Washington (Ecology) – GTN agrees to:

1. Provide Ecology access to either GTN compressor station 7 or 8 or Mainline valve sites 6.1, 6.2, 6.3, 7.1, or 7.2 for the purpose of installing a particulate monitoring station of limited size (no more than 10 feet by 10 feet);
2. Contribute to Ecology particulate monitoring equipment, valued between \$25,000 to \$30,000, that may be used at the site identified above or at some other site. If appropriate, this contribution will include a trailer for easy movement of the equipment;
3. Contribute to Ecology land or improvements (such as electricity, telephone, or fencing), valued up to \$25,000, for new particulate monitoring sites or for improvement of the site identified above;
4. Ecology agrees to “close control” of any key(s) provided for access to the selected GTN site(s) and GTN has the authority to shut down monitoring equipment located at a site during the time a “blowdown” is being conducted at that site.

b. Washington (SCAPCA) – GTN agrees to pay \$20,000 per bus for each bus that Freeman School District in Rockford, Washington replaces, up to five buses, in accordance with Contract No. 0911801.00 (“Contract”), signed on July 24, 2001, and according to the schedule in Exhibit A, attached to the Contract. The new buses will meet all current emissions requirements for diesel-powered buses.

c. Idaho – GTN agrees to contribute \$55,000 to the Bonner County Community Action Agency (“BCCAA”) towards the development of a Woodstove Upgrade Program in Bonner County, Idaho. BCCAA will develop a woodstove replacement and upgrade program with assistance from IDEQ and the Idaho Department of Water Resources, Energy Division to provide financial incentives to residents of Bonner County for the replacement of old, uncertified wood stoves. GTN will also contribute \$35,000 to the National Atmospheric Deposition Program/National Trends Network (NADP/NTN), administered by the University of Idaho, State Agricultural Experimental Station Program to set up a monitoring site to provide data for atmospheric pollutants and in particular to monitor nitrogen dioxide. In addition, GTN will contribute \$7,000 to the Coeur d’Alene Chamber of Commerce to organize and host a one-day Energy Forum conference to discuss the complex issues involved with the current energy situation. Finally, GTN will contribute \$8,000 to the Bonner County School District to install a WeatherNet Air Watch System at Idaho Hill Elementary School in Oldtown, Idaho.

d. Oregon – GTN agrees to complete the “mitigation projects” as described in paragraph 11.C. of the Oregon Order.

I. Effect of this Administrative Order

10. GTN’s compliance with the terms and conditions of this Order will resolve any and all liability of GTN under the federal Clean Air Act, Chapter 70.94 RCW, applicable SCAPCA regulations, IDAPA 58.01.01.201, and OAR 340-224-0010, and for beginning actual construction of the Project without first applying for and obtaining valid PSD permits, orders of approval under Ecology or SCAPCA regulations, or other pre-construction permits administered by the

governmental authorities who are Parties to this Order. Compliance with this Order will not resolve GTN's liability for any violations unrelated to GTN's failure to obtain necessary approvals prior to commencing construction of the Project.

11. GTN recognizes that it is entering into this Order and commencing construction without having obtained final air quality permits. Accordingly, GTN enters into this Order at its own risk of financial or business loss should the final permit or permits be denied or reflect terms and conditions that materially differ from the Project as proposed. EPA, Ecology, SCAPCA, and IDEQ shall incur no liability as a result of this Order and GTN's decision to commence construction prior to issuance of its final permits.

12. This Order is an enforceable order pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), Chapter 70.94 RCW, and Idaho Code 39-108(3)(a)(iv-v). Any action necessary to enforce this agreement shall be brought in the appropriate court in the jurisdiction of the party seeking to enforce this Order.

13. GTN agrees not to dispute before the Environmental Appeals Board, the Pollution Control Hearings Board, the Idaho Board of Environmental Quality, or in any other court of law, or otherwise, the applicability of PSD and new source review to the Project.

14. The Parties reserve all other rights and remedies, legal and equitable, to enforce the provisions of this Order.

15. Nothing in this Order shall be construed to limit the power of EPA, Ecology, SCAPCA, or IDEQ to undertake any action against GTN or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the

environment, or to limit the powers that each authority exercises to protect the public health, welfare, or the environment.

16. This Order is neither a permit, license, authorization, nor a modification of existing permits under any federal, state, or local law, and in no way relieves GTN of its responsibilities to comply with all applicable federal, state, and local laws and regulations, except as specifically provided in this Order.

17. EPA reserves all rights to review, comment on, and object to the proposed PSD permits.

VI. General Provisions

18. Any modification of this Order shall be by agreement of the Parties and in writing and shall not take effect until the written agreement is signed by all Parties. This shall not affect any Party's authority to enforce its rules and regulations.

19. Each undersigned representative of the Parties certifies that he or she is authorized to enter into the terms and conditions of this Order to execute and bind legally the Parties to this document.

20. This Order shall be effective upon the Effective Date. Signature by the representative of a Party on any copy of the Order shall constitute signature of the Order for determining the Effective Date.

21. Unless this Order states otherwise, whenever, under the terms of this Order, written notice is required to be given, or a report or other document is required to be sent by one Party to another, it shall be directed to the individuals specified at the addresses specified below in

paragraph 22, unless those individuals or their successors give notice of a change of address to the other Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided.

22. The following addresses shall be used for notices and submissions required by this Order:

As to EPA:

Dan Meyer
U.S. Environmental Protection Agency Region 10
1200 Sixth Avenue, OAQ-107
Seattle, WA 98101-1128

As to GTN:

Henry Morse
PG&E Gas Transmission, Northwest Corporation
1400 SW Fifth Avenue, Suite 900
Portland, OR 97201

As to Ecology:

Rich Hibbard
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

As to SCAPCA:

Eric Skelton, Control Officer
Spokane County Air Pollution Control Authority
1101 W. College Ave., Suite 403
Spokane, WA 99201

As to IDEQ:

Dan Redline
Idaho Department of Environmental Quality
2110 Ironwood Parkway
Coeur d'Alene, ID 83814

VII. Termination of this Order

23. This Order shall terminate, as it relates to each specific compressor station, automatically upon issuance (or other final permitting decision) of each individual PSD permit and notice of construction approval order for each of the compressor stations included in the Idaho or Washington portions of the Project.

24. Notwithstanding paragraph 23 above, this Order shall terminate, after notice by EPA, if any of the following occurs: (1) GTN does not comply with the material provisions of this Order; or (2) an imminent and substantial endangerment to public health, welfare, or the environment has occurred which EPA believes requires termination of this Order. The Order terminates immediately upon receipt by GTN of the notice of termination.

VIII. Survival of Terms

25. Paragraphs 10 and 15 of this Order shall survive the termination of this Order, unless EPA terminates this Order pursuant to paragraph 24, in which case, the Parties will retain the legal rights and responsibilities as they stood prior to the Effective Date of this Order. In addition, Contract No. 0911801.00, signed by GTN on July 24, 2001, shall survive the termination of this Order.

Date: August 24, 2001

/s/
Barbara McAllister, Director
Office of Air Quality
U.S. EPA, Region 10

Date: _____

/s/
Robert Howard
Vice President and General Manager
PG&E Gas Transmission, Northwest Corporation

Date: _____

/s/
Mary Burg, Air Quality Program Manager
Washington State Department of Ecology

Date: _____

Eric Skelton, Control Officer
Spokane County Air Pollution Control Authority

Date: _____

C. Stephen Allred, Director
Idaho Department of Environmental Quality